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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/020,864	10/22/2001	Mark Wurster	2438/1H787-US1	9678
7278	7590	08/08/2006	EXAMINER COBANOGLU, DILEK B	
DARBY & DARBY P.C. P. O. BOX 5257 NEW YORK, NY 10150-5257			ART UNIT 3626	PAPER NUMBER

DATE MAILED: 08/08/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/020,864	Applicant(s) WURSTER, MARK	
	Examiner Dilek B. Cobanoglu	Art Unit 3626	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 May 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-39 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-39 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Notice to Applicant

1. This communication is in response to the amendment filed 05/09/2006. Claims 1-39 continue pending.

Response to Affidavit

2. Applicant has submitted an affidavit to remove Surwit (U.S. Patent No. 6,980,958) and Baruch (U.S. Patent Publication No. 2002/0077849) as references applied under 35 U.S.C. § 102(e)/103(a) in the previous Office Action. The declaration filed on 05/09/2006 under 37 C.F.R. § 1.131 has been considered but is ineffective to overcome the Surwit and Baruch references for the following reasons:

- i. MPEP Section 715.02 states the following:

Affidavit or declaration of prior invention: (b) The showing of facts shall be such, in character and weight, as to establish reduction to practice prior to the effective date of the reference, or conception of the invention prior to the effective date of the reference coupled with due diligence from prior to said date to a subsequent reduction to practice or to the filing of the application. Original exhibits of drawings or records, or photocopies thereof, must accompany and form part of the affidavit or declaration or their absence must be satisfactorily explained.

In this case, the Applicant Mark Wurster states that he completed his invention as described in the subject application in this country, a NAFTA country, or a WTO member country prior to the effective date of the reference Surwit. The

Applicant also states that his invention was conceived in full and due diligence was used to reduce it to practice, for example by filing this patent application.

Applicant's declaration includes both conditions as explained above.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –
(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 1-5, 7-9, 11-39 are rejected under 35 U.S.C. 102(e) as being unpatentable by Surwit et al. (6,980,958 B1).

A. Claims 1-3, 5, 7-9, 11-20, 22-23, 27, 29, 33-34, 37-39 have not been amended, and Applicant does not appear to argue the separate patentability of these claims. As such, claims 1-3, 5, 7-9, 11-20, 22-23, 27, 29, 33-34, 37-39 are rejected for the same reasons given in the previous Office Action (paper number 2-7), and incorporated herein.

B. Claims 4 and 24 are amended to correct some typographical errors. However, these changes do not affect the scope and breadth of the claim as originally presented and/or in the manner, in which the claim was interpreted by the Examiner when applying prior art within the previous Office Action (see paper

number 3). As such, these limitations are rejected under the same rationale given in the prior Office Action (paper number 19), and incorporated herein.

C. Claim 21 is amended now to recite a system for administration of anticoagulation medication accessed via a computer terminal over a network, comprising:

- i. A first device receiving current information for each patient's visit (Surwit; col. 4, lines 47-67, col. 9, lines 18-30 and Fig. 1);
- ii. A second device automatically calculating a new weekly dose medication regimen based on the received information (Surwit; col. 8, lines 50-58 and Fig. 1).

D. Claim 25 is amended now to recite the system in accordance with claim 21, further comprising a device to convert the new weekly dose medication into daily doses based on a number of milligrams in a single pill (Surwit; col. 9, lines 44-52, col. 22, line 65 to col. 23, line 9 and col. 28, lines 39-48).

E. Claim 26 is amended now to recite the system in accordance with claim 25, wherein said converting device comprises a device to receive from a user over the network a setting of a predetermined number of milligrams in a single pill as defined by the user (Surwit; col. 22, line 65 to col. 23, line 9 and col. 28, lines 45-48).

F. Claim 28 is amended now to recite the system in accordance with claim 21, further comprising a display device displaying a list of patients that are overdue

for a scheduled visit as of a current date (Surwit; col. 10, lines 1-11, col. 13, lines 48-51, and col. 19, lines 10-22).

G. Claim 30 is amended now to recite the system in accordance with claim 21, wherein the current information includes updated medication information (Surwit et al.; col. 9, lines 18-29), the system further comprising a display device automatically displaying medication interaction messages in response to receiving the updated medication information (Surwit et al.; col. 10, lines 1-11, 42-52 and col. 20, lines 8-13).

H. Claim 31 is amended now to recite the system in accordance with claim 21, further comprising a display device displaying a list of patients scheduled for a visit on a current date (Surwit; col. 13, lines 39-60 and col. 10, lines 1-11).

I. Claim 35 is amended now to recite the system in accordance with claim 21, further comprising:

- i. A first device accessing the system via a web site (Surwit; col. 11, lines 3-20)
- ii. A second device receiving a selection of preferences to customize configuration of the web site (Surwit; col. 11, lines 3-20, col. 12, line 60 to col. 13, line 10)

J. Claim 36 is amended now to recite the system in accordance with claim 21, further comprising a calculation device automatically calculating a scheduled return visit based on whether the new weekly dose medication regimen has

changed relative to the current weekly anticoagulation medication dose (Surwit; col. 10, lines 33-41).

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 6 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Surwit et al. (U.S. Patent No. 6,980,958 B1) in view of Baruch U.S. Patent Publication no. 2002/0077849).

A. Claims 6 and 10 have not been amended, and Applicant does not appear to argue the separate patentability of these claims. As such, claims 6 and 10 are rejected for the same reasons given in the previous Office Action (paper number 7-9), and incorporated herein.

Response to Arguments

7. Applicant's arguments filed 05/09/2006 have been fully considered but they are not persuasive. All of the arguments of the Applicant are about the declaration states that the inventors completed and reduced to practice the invention as claimed in the present application prior to the earliest filing date of Surwit. The Affidavit provided by the Applicant found insufficient as explained above.

8. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

9. A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dilek B. Cobanoglu whose telephone number is 571-272-8295. The examiner can normally be reached on 8-4:30.

11. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph Thomas can be reached on 571-272-6776. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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12. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

DBC

DBC

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07/17/2006


JOSEPH THOMAS
SUPERVISORY PATENT EXAMINER